THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

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WRIT PETITION NO : 23573 of 1996

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DATED: 31-01-2006

G.Kamala.

..... PETITIONER

AND

The District Collector, Visakhapatnam.
VISAKHAPTNAM & 2 others.

.....RESPONDENTS

ORDER:

The case of the petitioner is that she purchased Ac.0.40 cents in S.No.241/2 of Desapatrunipalem village from the 3rd respondent under a registered sale deed, dated 03-05-1983, and has been in possession thereof and raised casurina tope therein and when 3rd respondent tried to interfere with her possession she filed a suit seeking declaration of her title and perpetual injunction restraining the 3rd respondent from interfering with her possession and filed I.A.No.1336 of 1991 seeking interim injunction against the 3rd respondent and the Mandal Revenue Officer (2nd respondent) in which the 2nd respondent filed a counter alleging that since the sale in her favour is hit by the provisions of the A.P. Assigned Land Prohibition of Transfer Act, 1977 (the Act) the land was resumed from her through proceedings in Rc.No.319 of 1988, dated

30-05-1991, and that that contention of 2nd respondent cannot be true inasmuch as she is continuing in possession of the property, and since she also is a landless poor bona fide purchaser of the land from the 3rd respondent, respondents trying to interfere with her possession is illegal and without jurisdiction.

2. Petition against 3rd respondent was dismissed for default as per the order dated 14-02-2003.

3. No counter affidavit is filed on behalf of the respondents
1 and 2 though the case is of the year, 1996.

4. The contention of the learned counsel for the petitioner is that since the petitioner is continuing to be in possession of the land purchased by her and since no notice of any enquiry under the provisions of the Act was issued to the petitioner, respondents have no right to interfere with the possession of the petitioner without following the procedure contemplated under Act.

5. Learned Assistant Government Pleader seeks time. I find no ground to grant time because the case is of the year, 1996 since no counter affidavit is filed by any of respondents 1 and 2.

6. The averments in the affidavit of the petitioner filed in support of the petition show that 1st respondent informed that proceedings under the Act were initiated and an order of eviction was passed against her. An order passed under the Act is subject to appeal and revision. So petitioner, if she felt aggrieved by the order said to have been passed against her under the Act, should have exhausted the remedies open to her under the Act before moving the Court. Without doing so she directly approached the Court.

7. Even assuming that petitioner was not aware of the proceedings under the Act, when she was made aware of those proceedings she should have taken recourse to the effective alternative remedy of appeal under Section 4-A of Act where the question whether there was due service of notice or not and whether the procedure prescribed under the Act was followed or not by the 2nd respondent could be gone into and decided. Since she fails to exhaust the remedies under the Act and directly approached this Court she cannot be granted any relief. Hence the petition is

dismissed. No costs.

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(C.Y.SOMAYAJULU,J)

31st January, 2006

Note:

Furnish C.C. by two days.

B/o

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